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**TO: Examiner Stephen J. Castellano - Group Art Unit 3781 - U.S.P.T.O.**

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**FROM: Donita Konrad (Typed or printed name of person signing Certificate)**

Fax No. 513-634-6108

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Application No.: 09/755,408

Inventor(s): Robert I. Nurse

Filed: January 5, 2001

Docket No.: 7903ML

Confirmation No.: 5236

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Donita Konrad (Signature)

**Listed below are the item(s) being submitted with this Certificate of Transmission:\*\***

- 1) Reply to Examiner's Answer (9 pgs)
- 2)
- 3)
- 4)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/755,408  
Inventor(s) : Robert I. Nurse  
Filed : January 5, 2001  
Art Unit : 3781  
Examiner : Stephen J. Castellano  
Docket No. : 7903ML  
Confirmation No. : 5236  
Customer No. : 27752  
Title : Selectively Reinforceable Container

**REPLY TO EXAMINER'S ANSWER**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

This reply is in response to the Examiner's answer of July 17, 2007.

A timely Notice of Appeal was filed on November 27, 2006.

**REAL PARTY IN INTEREST**

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

**RELATED APPEALS AND INTERFERENCES**

There are no known related appeals, interferences, or judicial proceedings.

**STATUS OF CLAIMS**

Claims 1, 3-5, 8-14, 16, 17 and 21-34 are pending in the present application. No additional claims fee is believed to be due.

Claims 2, 6, 7, 15 and 18-20 are canceled without prejudice.

Claims 1, 3-5, 8-14, 16, 17 and 28-33 have been withdrawn as a result of an earlier restriction requirement.

Claims 21-27 and 34 have been finally rejected.

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AUG 17 2007

Appl. No. 09/755,408  
Docket No. 7903ML  
Reply Brief dated August 17, 2007  
Reply to Examiner's Answer mailed July 17, 2007  
Customer No. 27752

The rejection of claims 21-27 and 34 is appealed.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

#### STATUS OF AMENDMENTS

No amendment was filed.

#### SUMMARY OF CLAIMED SUBJECT MATTER

As set forth in independent claim 21, the invention comprises a container having a plurality of upstandable sidewalls interconnected by a floor pan. The floor pan is domed. An upstanding reinforcing panel is releasably connected to one of the sidewalls. One of the sidewalls is reinforceable with the upstanding reinforceable panel. The reinforceable panel is releasable from the sidewall without the necessity of separating it from the container. See Specification, page 3, line 34 - page 4, line 20, and figures 4 and 5.

#### GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 21-26 and 34 stand rejected under 35 USC §103(a) as unpatentable over *Simmons* (US 5,622,276) in view of *Syrek* \*US 5,392,945).
2. Claim 27 stands rejected under 35 USC §103(a) as being unpatentable over *Simmons* in view of *Syrek* and further in view of *Spykerman* (US 6,253,943).

#### ARGUMENTS

1. The rejection of claims 21-26 and 34 stand under 35 USC §103(a) as unpatentable over *Simmons* (US 5,622,276) in view of *Syrek* \*US 5,392,945) is not properly supported and should be overturned.

Appellant submits that the cited combination fails to support a *prima facie* case of obviousness under 35 USC §103(a) as it does not teach or suggest each of the limitations of the invention as claimed there is no reasonable expectation of success in making the cited combination.

Appl. No. 09/755,408  
Docket No. 7903ML  
Reply Brief dated August 17, 2007  
Reply to Examiner's Answer mailed July 17, 2007  
Customer No. 27752

The Examiner makes much of the admission by Appellant that a domed floor is known in the art. Appellant does not claim a domed floor in isolation but only in combination with other features.

The Examiner posits that the simple addition of the domed floor from Syrek to Simmons renders the claimed invention obvious. Appellant submits that through the argument of the Examiner it may be ascertained that a simple addition will not accomplish this. The Examiner provides that the floor 14 of Simmons may be domed thereby imparting a domed shape to the floor pan of item 28. The Examiner has thus disclosed all of the elements of the invention as claimed in a structure which is necessarily more complex than that claimed by Appellant. A previously undisclosed, simplified structure having the utility of previous structures of greater complexity is not obvious.

Alternatively, the Examiner alters the teachings of the reference to provide that liner 28 is simultaneously flexible, plastic like and capable of sagging from sidewalls 30 as shown in figures 4-5, also capable of being folded flat under endwalls 18 and unfolded back into position against sidewalls 30, while also being sufficiently self supporting that it can retain a domed shape once said shape has been imparted to the material. Appellant submits that this is far beyond the requirement of taking the reference as a whole and has demonstrated once again that because of the number of suppositions required to stretch the teachings of the reference far enough to cover the invention as claimed, that the invention is non-obvious. More must be offered than saying the reference does not say that the liner could not be both flexible and self supporting.

The cited combination fails to teach or suggest each of the limitations of the invention as claimed and there is no reasonable expectation of success that the combination may be made. This rejection should be overturned.

2. The rejection Under 35 USC §103(a) Over *Simmons* in view of *Syrek* and further in view of *Spykerman* is not supported.

Claim 27 stands rejected under 35 USC §103(a) as being unpatentable over *Simmons* in view of *Syrek* and further in view of *Spykerman* (US 6,253,943). This

Appl. No. 09/755,408  
Docket No. 7903ML  
Reply Brief dated August 17, 2007  
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Customer No. 27752

rejection is respectfully appealed because the combination of references fails to teach or suggest each of the elements of the invention as claimed and the combination of references is improper.

The *Simmons / Syrek* combination does not properly support a *prima facie* case of obviousness under 35 USC §103(a) as provided above. The addition of *Spykerman* does not cure this deficiency and the cited combination also fails to teach or suggest each of the limitations of the underlying independent claim and therefore cannot support a *prima facie* case of obviousness for a rejection under 35 USC §103(a) of claim 27. Without the underlying rejection of independent claim 21, this rejection cannot stand and should be overturned.

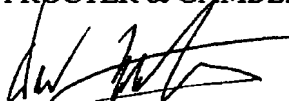
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Appl. No. 09/755,408  
Docket No. 7903ML  
Reply Brief dated August 17, 2007  
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Customer No. 27752

**SUMMARY**

In view of all of the above, it is respectfully submitted that the rejections of claims 21-27 and 34 under 35 USC §103(a) are not properly supported and should be overturned.

Respectfully submitted,  
THE PROCTER & GAMBLE COMPANY



Signature

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Appl. No. 09/755,408  
Docket No. 7903ML  
Reply Brief dated August 17, 2007  
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Customer No. 27752

**CLAIMS APPENDIX**

21. (Rejected) A container having a plurality of upstandable sidewalls interconnected by a floor pan, wherein said floor pan is domed, at least one upstanding reinforcing panel releasably connected to at least one of said sidewalls, wherein at least one of said sidewalls is reinforceable with said at least one upstanding reinforceable panel, said reinforceable panel being releasable from said sidewall without separation from said container.
22. (Rejected) A container according to Claim 21, wherein said reinforceable panel has a proximal end and a distal end, said reinforceable panel being articulably joined to said container at said proximal end.
23. (Rejected) A container according to Claim 22, wherein said reinforceable panel is articulably joined to said container at a hinge juxtaposed with said floor pan.
24. (Rejected) A container according to Claim 22, wherein said reinforceable panel is attachable to said container at said distal end of said reinforceable panel.
25. (Rejected) A container according to Claim 24, wherein said distal end of said reinforceable panel is attachable with a tab/slot arrangement wherein one of said reinforceable panel and said sidewalls have protruding tabs, the other having complementary slots attachable to said tabs.
26. (Rejected) A container according to Claim 25, wherein said reinforceable panel comprises a panel, said panel being substantially coextensive of and attachable to a sidewall of said container.
27. (Rejected) A container according to Claim 26, wherein said reinforceable panel further comprises notches for gripping said reinforceable panel by a user.

Appl. No. 09/755,408  
Docket No. 7903ML  
Reply Brief dated August 17, 2007  
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34. (Rejected) A container according to Claim 24, wherein said floor pan has an inner surface and an outer surface, said reinforceable panel being removably attachable to said outer surface of said floor pan.



Appl. No. 09/755,408  
Docket No. 7903ML  
Reply Brief dated August 17, 2007  
Reply to Examiner's Answer mailed July 17, 2007  
Customer No. 27752

#### EVIDENCE APPENDIX

(None)

Appl. No. 09/755,408  
Docket No. 7903ML  
Reply Brief dated August 17, 2007  
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**RELATED PROCEEDINGS APPENDIX**

(None)